

UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
DURHAM DIVISION

IN THE MATTER OF:) Case No: B-1081995 C-13D
ALEX L. BOONE,)
SARAH K. BOONE,)
)
Debtor(s))

)

OBJECTION BY STANDING TRUSTEE TO CONFIRMATION OF PLAN

NOW COMES Richard M. Hutson, II, Standing Trustee (“Trustee”) and respectfully objects to confirmation of the Debtors’ plan pursuant to 11 U.S.C. §1325 and shows unto the Court the following:

1. The Debtors filed a petition under Title 11 of the United States Code, Chapter 13, on October 29, 2010, in the United States Bankruptcy Court for the Middle District of North Carolina.
2. On October 29, 2010, Richard M. Hutson, II, was appointed as Trustee.
3. This Court has proper and personal jurisdiction of the subject matter hereof and over the parties pursuant to 28 U.S.C. §§151, 157 and 1334, and the Standing Order entered by the United States District Court for the Middle District of North Carolina and this is a core proceeding within 28 U.S.C. §157(b).
4. The Debtors’ plan proposes a monthly payment of \$1,212.00 per month for a period of at least 36 months. No dividend is required to unsecured creditors.
5. Aurora Loan Services (“Aurora”) has filed a claim in the amount of \$105,988.03 secured by the Debtors’ real property located at 1110 Orchard Way, Durham, NC (“the real property”). Aurora asserts monthly payments of \$905.03 and an arrearage claim through February of 2011 of \$13,046.88.
6. The Debtors’ plan provides for Wells Fargo in the amount of \$11,134.26 secured by the Debtors’ 2007 Kia payable in monthly installments of \$240.00.
7. The Trustee objects to confirmation of the plan in that the Debtors’ proposed plan payments are not sufficient to satisfy the long-term debt of Aurora, the arrearage claim of Aurora, the secured claim of Wells Fargo, and all other claims within the 60 month time limitation of 11 U.S.C. §1322(d).

WHEREFORE, the Trustee prays the Court for an Order as follows:

1. That the Debtors' plan not be confirmed in that the plan does not comply with 11 U.S.C. §1325 and the case be dismissed for cause pursuant to 11 U.S.C. §1307; or
2. For such other and further relief as the Court may deem just or proper.

This the 19th day of January, 2011.

s/Benjamin E. Lovell

Benjamin E. Lovell
Attorney for the Trustee
State Bar No: 23266
P.O. Box 3613
Durham, N.C. 27702

CERTIFICATE OF SERVICE

This is to certify that I have this day served a copy of the foregoing document upon John T. Orcutt, Esq., 6616-203 Six Forks Rd., Raleigh, NC 27615, Alex & Sarah Boone, 1110 Orchard Way, Durham, NC 27704, and Michael D. West, Esq., U.S. Bankruptcy Administrator, PO Box 1828, Greensboro, NC 27402 by depositing a copy of same in the United States Mail, postage prepaid, and in the manner prescribed by Rule 5 of the Federal Rules of Civil Procedure.

This 19th day of January 2011.

s/Benjamin E. Lovell

Benjamin E. Lovell, Esq.
Attorney for the Standing Trustee